

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tileyah Williams	Team: Squad #06	CCRB Case #: 202205895	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 09/02/2022 9:40 PM, Saturday, 09/03/2022 4:00 PM	Location of Incident: At and outside of Washington Square Park South, 6th Precinct Stationhouse	18 Mo. SOL 3/2/2024	Precinct: 06
Date/Time CV Reported Fri, 09/02/2022 10:00 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 09/02/2022 10:00 PM

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. PO Muhammad Amir	10773	966434	MS SU CRT
3. PO James Scagnelli	14689	964281	006 PCT
4. An officer			
5. LT Kyong Kim	00000	938772	006 PCT
6. PO Dylan Francis		972344	

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Kyle Daly	21657	972384	013 PCT
2. PO George Mcfall	00680	930692	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A . LT Kyong Kim	Abuse: On September 2, 2022, at Washington Square Park in Manhattan, Lieutenant Kyong Kim seized § 87(2)(b)'s property.	
B . PO Muhammad Amir	Discourtesy: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer Muhammad Amir acted discourteously toward § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
C . PO Muhammad Amir	Force: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer Muhammad Amir used physical force against § 87(2)(b)	
D . PO James Scagnelli	Force: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer James Scagnelli used physical force against § 87(2)(b)	
E . LT Kyong Kim	Force: On September 2, 2022, at Washington Square Park in Manhattan, Lieutenant Kyong Kim used physical force against § 87(2)(b)	
F . Officers	Force: On September 2, 2022, at Washington Square Park in Manhattan, officers used physical force against § 87(2)(b)	
G . Officers	Force: On September 2, 2022, at Washington Square Park in Manhattan, officers restricted § 87(2)(b)'s breathing.	
H . PO Dylan Francis	Force: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer Dylan Francis used physical force against an individual.	
I . PO Dylan Francis	Force: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer Dylan Francis used physical force against § 87(2)(b)	
J . An officer	Force: On September 2, 2022, at Washington Square Park in Manhattan, an officer used physical force against § 87(2)(b)	
K . Officers	Force: On September 2, 2022, at Washington Square Park in Manhattan, officers used physical force against individuals.	
L . PO Muhammad Amir	Force: On September 2, 2022, outside of Washington Square Park in Manhattan, Police Officer Muhammad Amir used physical force against § 87(2)(b)	
M . An officer	Abuse: On September 3, 2022, at the 6th Precinct stationhouse, an officer did not process § 87(2)(b)'s complaint regarding officers.	

Case Summary

§ 87(2)(b) filed this complaint on behalf of herself, her friends, § 87(2)(b) and unidentified individuals via the CCRB Call Processing System.

On September 2, 2022, at approximately 9:40pm, § 87(2)(b) was at Washington Square Park South in Manhattan listening to music on his speaker. Lieutenant Kyong Kim of the 6th Precinct directed Police Officer Muhammad Amir and Police Officer James Scagnelli of the 6th Precinct to seize § 87(2)(b)'s speaker (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Amir allegedly asked § 87(2)(b) for his ID and slapped § 87(2)(b)'s speaker out of his hand (**Allegation B: Discourtesy**, § 87(2)(g)). § 87(2)(b) allegedly assaulted PO Amir, and PO Amir and PO Scagnelli forced § 87(2)(b) to the ground to get him in handcuffs (**Allegations C and D: Force**, § 87(2)(g)). While they were on the ground, Lt. Kim, and PO Amir along with additional unidentified officers allegedly punched, pushed, and restricted § 87(2)(b)'s breathing (**Allegation E: Force**, § 87(2)(g) and **Allegations F and G: Force**, § 87(2)(g)). Additional officers, including Police Officer Dylan Francis of the 13th Precinct responded and allegedly punched an individual in his face and pushed § 87(2)(b) (**Allegations H and I: Force**, § 87(2)(g)). As officers struggled with § 87(2)(b), § 87(2)(b) attempted to pick up § 87(2)(b)'s cell phone that fell, and an officer allegedly punched her hand (**Allegation J: Force**, § 87(2)(g)). An officer allegedly punched § 87(2)(b) in her breast to get her away from § 87(2)(b) as he was arrested (within Allegation J). Additional officers forcefully pushed civilians back to keep them away from § 87(2)(b) (**Allegation K: Force**, § 87(2)(g)). As PO Amir escorted § 87(2)(b) to a transporting vehicle, PO Amir allegedly pulled § 87(2)(b)'s hair and forcefully pushed him up against a gate (**Allegation L: Force**, § 87(2)(g)). § 87(2)(b) was arrested for § 87(2)(b).

§ 87(2)(b) went to the 6th Precinct stationhouse the next day and an officer allegedly refused to file her complaint (**Allegation M: Abuse of Authority**, § 87(2)(g)).

The investigation received body worn camera videos from most officers who responded (**01-08 Board Review**). TARU footage and mobile video of the incident was also obtained (**09-11 Board Review**).

Findings and Recommendations

Allegation (A) Abuse of Authority: On September 2, 2022, at Washington Square Park in Manhattan, Lieutenant Kyong Kim seized § 87(2)(b)'s property.

PO McFall's BWC shows that at 1 minute, when the audio began, PO McFall told § 87(2)(b) that he was not advised to have an amplified device in the park (**03 Board Review**). § 87(2)(b) repeats that officers asked him to turn his speaker off and he did. There is no music playing from § 87(2)(b)'s speaker. PO McFall noted that it was a warning and walked away.

Lt. Kim's BWC records the above interaction from a few feet away (**04 Board Review**). When PO McFall walks away from § 87(2)(b) at nine seconds, Lt. Kim's camera remains on § 87(2)(b). § 87(2)(b) does not touch his speaker. At 57 seconds, PO Amir and PO Scagnelli come into view and Lt. Kim points them to § 87(2)(b). When Lt. Kim's BWC audio starts, PO Amir approaches § 87(2)(b) and requests his ID. § 87(2)(b)'s speaker is still off.

PO Amir's BWC confirms that when he approached § 87(2)(b) at 1:06 minutes and asked for his ID, § 87(2)(b)'s speaker was not playing any music (**05 Board Review**).

NYPD invoice number § 87(2)(b) notes that § 87(2)(b)'s speaker was vouchered as a part of arrest evidence (**12 Board Review**).

NYPD EVENT § 87(2)(b) records § 87(2)(b) an onlooker, call 911 and report that a male was beat up by officers (**34 Board Review**). The radio communications for this EVENT records an officer requesting additional units and later asking for a transporting vehicle for an arrest.

§ 87(2)(b) testified that when Lt. Kim and PO McFall first approached him and told him to turn his speaker off, he asked if he could play it low (**13 Board Review**). The officers reiterated that he needed to turn it off, so he did. When Lt. Kim and PO McFall walked away, § 87(2)(b)'s speaker remained on the ground and turned off. When PO Amir and PO Scagnelli approached § 87(2)(b) his speaker was still off. PO Amir asked § 87(2)(b) whether he had an ID and § 87(2)(b) stared at him in disbelief and was confused. He asked PO Amir why he needed an ID and leaned forward to pick up his speaker.

Lt. Kim testified that he walked through the park and told several people to turn off their speakers. Everyone else complied but § 87(2)(b) refused after Lt. Kim asked four or five times (**14 Board Review**). There were signs in the park that amplified sound devices were not allowed and Lt. Kim was enforcing the rules. Lt. Kim instructed PO Amir to take § 87(2)(b)'s speaker and give him a summons for using an amplified sound device. He planned to have the speaker invoiced and vouchered at the stationhouse. Lt. Kim did not remember if the speaker was still on when he instructed PO Amir to take it, but believed that it was because that was the reason that officers were taking it. After watching Lt. Kim's BWC, he said that he did not hear § 87(2)(b)'s speaker playing and that this could have been because there was some distance between him and § 87(2)(b).

PO Amir testified that Lt. Kim instructed him to confiscate § 87(2)(b)'s speaker but did not explain the reason (**15 Board Review**). PO Amir did not recall whether § 87(2)(b)'s speaker was off when he approached him. After watching the video, PO Amir said that the speaker was off but that he continued to get § 87(2)(b)'s ID for a summons and to confiscate the speaker because Lt. Kim told him to.

PO Scagnelli testified that Lt. Kim instructed him and PO Amir to take § 87(2)(b)'s speaker and write him a summons because he would not shut the speaker off (**16 Board Review**). PO Scagnelli noted that it was not against the rules to have an amplified sound device itself, it was against the rules for the device to be on. PO Scagnelli did not remember if the speaker was still on when he approached § 87(2)(b).

When officers hear, see, or are informed of an unreasonable noise they must determine if the noise is unreasonable, warn the violator, and finally if they are unable to correct the condition, and the violator is eligible, officers should issue a summons and lawfully seize the device NYPD Patrol Guide 214-23 (**17 Board Review**).

§ 87(2)(g)
[REDACTED]

Allegation (B) Discourtesy: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer Muhammad Amir acted discourteously toward § 87(2)(b)

PO Amir's BWC shows that at 1:07 minutes, after he asks § 87(2)(b) for his ID several times, § 87(2)(b) refuses to provide his ID (**05 Board Review**). PO Amir reaches down to get § 87(2)(b)'s speaker from the ground and § 87(2)(b) touches PO Amir's wrist. PO Amir places the speaker back on the ground. At 1:13 minutes, PO Amir holds both of § 87(2)(b)'s arms and § 87(2)(b) moves his arms back and forth toward PO Amir but does not contact PO Amir. PO Amir's BWC falls off at 1:15 minutes. PO Amir was the only officer who touched § 87(2)(b)'s speaker at that point.

§ 87(2)(b) testified that after he attempted to pick up his speaker, PO Amir tried to grab the speaker (**13 Board Review**). § 87(2)(b) told PO Amir that he could not do that and grabbed it back. PO Amir smacked § 87(2)(b)'s speaker to the ground.

§ 87(2)(b) testified that when PO Amir reached for § 87(2)(b)'s speaker, § 87(2)(b) slapped it out of his hand (**23 Board Review**).

§ 87(2)(b) testified that officers kicked § 87(2)(b)'s speaker (**22 Board Review**).

§ 87(2)(g)

Allegation (C) Force: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer Muhammad Amir used physical force against § 87(2)(b)

Allegation (D) Force: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer James Scagnelli used physical force against § 87(2)(b)

Allegation (E) Force: On September 2, 2022, at Washington Square Park in Manhattan, Lieutenant Kyong Kim used physical force against § 87(2)(b)

Allegation (F) Force: On September 2, 2022, at Washington Square Park in Manhattan, officers used physical force against § 87(2)(b)

Allegation (G) Force: On September 2, 2022, at Washington Square Park in Manhattan, officers restricted § 87(2)(b)'s breathing.

Lt. Kim's BWC shows that at 1:07 minutes, PO Scagnelli is behind PO Amir when § 87(2)(b) touched his wrist (**04 Board Review**). PO Scagnelli walks forward and then stands side by side with PO Amir. At 1:13 minutes, PO Scagnelli is in front of § 87(2)(b). PO Amir, PO Scagnelli and § 87(2)(b) then fall to the ground. Lt. Kim approaches to assist with the handcuffing. At 1:23 minutes, § 87(2)(b)'s body is laid on the ground and he is twisting back and forth. PO Scagnelli's and PO Amir's arms are moving around § 87(2)(b)'s arms. Lt. Kim assists in trying to get § 87(2)(b)'s arms. At some point, § 87(2)(b) is sitting upright saying that his speaker is off. At 1:48 minutes, PO Scagnelli and PO Amir use § 87(2)(b)'s arms to get § 87(2)(b) lying on his stomach. From 2:01 minutes, until officers stand § 87(2)(b) up at 2:37 minutes, the view only shows officers' hands in the vicinity of § 87(2)(b)'s back. The view does not always depict § 87(2)(b)'s full back nor all officers' positions throughout the incident. At some points during the incident, § 87(2)(b)'s body is covered by officers. Civilians are heard in the background yelling that officers are choking § 87(2)(b) using excessive force and that an officer's knee is on § 87(2)(b)'s neck.

None of the officers' BWC show what happens with § 87(2)(b) during the next portion of the incident (**01, 02 Board Review**). The footage does not capture all the officers' positions and § 87(2)(b)

§ 87(2)(b)'s full body during the struggle. § 87(2)(b)'s neck is never revealed, and the view does not show officers kneeling on § 87(2)(b) or committing any other acts of force against him.

Police Officer Kyle Daly of the 13th Precinct BWC's recording showed that he assisted in the handcuffing of § 87(2)(b) by pulling § 87(2)(b)'s arms together (**06 Board Review**). This view of the handcuffing is the same as Lt. Kim's.

TRI report § 87(2)(b) notes that officers forcibly took § 87(2)(b) down and wrestled and grappled with him to overcome his resistance (**18 Board Review**). The TRI also notes that § 87(2)(b) § 87(2)(b) elbowed PO Scagnelli in the nose and spit at PO Amir's face.

§ 87(2)(b) testified that after PO Amir smacked his speaker to the ground, he grabbed § 87(2)(b)'s left wrist, pulled it behind his back and used his shoulder to push § 87(2)(b) to the ground. § 87(2)(b) fell on his face. PO Amir and PO Scagnelli attempted to arrest § 87(2)(b) and § 87(2)(b) yelled that he did not do anything. § 87(2)(b) only resisted arrest verbally and kept his arms behind his back, not making any physical movements. PO Amir pushed § 87(2)(b)'s face against the ground to keep him in place. Four additional officers arrived and piled on top of § 87(2)(b). An unknown officer in a white shirt put their knee on the top/back of § 87(2)(b)'s head, in between his head and neck to hold him down. § 87(2)(b) only saw that this officer had on a white shirt and did not provide any additional details. He felt a lot of pressure on his head and back but did not recall his breathing being restricted. The knee remained until § 87(2)(b) § 87(2)(b) was handcuffed and stood up. § 87(2)(b) later noticed that his forehead, legs, and knees had scrapes, but he did not seek medical attention.

§ 87(2)(b) testified that she stood approximately ten feet from the incident. (**19 Board Review**). She observed PO Amir pull both of § 87(2)(b)'s arms, causing him to land on the ground. § 87(2)(b) was not sure how § 87(2)(b) was positioned when he first landed but knew that at some point § 87(2)(b) was on his knees and PO Amir used § 87(2)(b)'s upper back and lower shoulder to slam him face down to the ground. § 87(2)(b) saw Lt. Kim and PO Scagnelli later approach § 87(2)(b) and PO Scagnelli sat on § 87(2)(b)'s lower back or legs with both of his legs on either side of § 87(2)(b)'s body.

§ 87(2)(b) testified that PO Amir first approached § 87(2)(b) and told him to turn off his speaker, which he did (**20 Board Review**). PO McFall and PO Scagnelli then arrived and when one of them touched § 87(2)(b)'s speaker, § 87(2)(b) put his hands on his speaker. An unidentified officer punched § 87(2)(b) on the right side of his face. Another unidentified officer pulled § 87(2)(b)'s hair, causing his head to hit the bench. Officers pressed § 87(2)(b)'s head into the bench and handcuffed him. At some point after handcuffing him, officers got § 87(2)(b) face down to the ground, though § 87(2)(b) did not see how this happened. An unidentified officer placed their knee on the back of § 87(2)(b)'s full neck. § 87(2)(b) saw officers punching § 87(2)(b) while he was on the ground, after he had been handcuffed.

§ 87(2)(b) testified that he was standing on the opposite side of the bench from § 87(2)(b) when the incident occurred (**21 Board Review**). After PO Amir requested § 87(2)(b)'s ID, PO Amir grabbed § 87(2)(b) by both of his arms and pulled him from the bench. Officers then got § 87(2)(b) to the ground face down but § 87(2)(b) could not explain how they did this. Approximately seven officers arrived, got on top of § 87(2)(b) and assisted in handcuffing § 87(2)(b). An unidentified officer had their knee on the back of § 87(2)(b)'s neck/head. He saw unidentified officers pressing down on § 87(2)(b)'s back with their hands and holding his legs and arms behind his back.

§ 87(2)(b) testified that after PO Amir kicked § 87(2)(b)'s speaker, § 87(2)(b) grabbed his speaker and one of the officers grabbed § 87(2)(b) and pulled him to the ground (**22 Board Review**). Approximately five officers jumped on § 87(2)(b) and moved their hands all over § 87(2)(b)'s body. The officers' backs were toward § 87(2)(b) so he could not see what they were doing but believed that they were punching § 87(2)(b). § 87(2)(b) saw one officer with their knee on § 87(2)(b)'s neck and one officer with their knee on the back of § 87(2)(b)'s head.

§ 87(2)(b) testified that prior to officers taking § 87(2)(b) to the ground, he saw several officers move quickly toward § 87(2)(b) (**23 Board Review**). § 87(2)(b) could not describe which officers did what to § 87(2)(b) because he was 50 meters away.

PO Amir testified that after he reached to pick up § 87(2)(b)'s speaker that had fallen to the ground, § 87(2)(b) attempted to grab the speaker himself, touching PO Amir's hand. PO Amir decided to arrest § 87(2)(b) for § 87(2)(b). PO Amir leaned toward § 87(2)(b) to hold him, and § 87(2)(b) grabbed a hold of PO Amir, while pulling his body backward away from PO Amir. § 87(2)(b) attempted to tackle PO Amir by his lower legs. PO Amir pulled § 87(2)(b) by his arms and brought him to the ground. PO Amir knew that PO Scagnelli was helping but did not know if he also guided § 87(2)(b) to the ground. At some point, PO Amir held onto § 87(2)(b) by his hair to gain compliance, but he did not hit § 87(2)(b) into a bench. PO Scagnelli and PO Amir attempted to place § 87(2)(b) in handcuffs; however, § 87(2)(b) moved his arms around and pulled his body away from them. Lt. Kim assisted but PO Amir could not see how. At one point, § 87(2)(b) elbowed and spit at PO Scagnelli. PO Amir grabbed § 87(2)(b)'s arms to put them behind his back. PO Amir's body position changed throughout the incident. He stood over § 87(2)(b) and crouched down near him. He noted that he probably kneeled at one some point, with his knees on the ground. He did not recall his knees being on § 87(2)(b)'s body. He denied or did not recall engaging in the force that was committed against § 87(2)(b). He did not see or recall other officers doing so (**15 Board Review**).

PO Scagnelli testified that after PO Amir reached to take § 87(2)(b)'s speaker, § 87(2)(b) used both of his arms and wrapped them around PO Amir's legs (**16 Board Review**). PO Scagnelli did not smack § 87(2)(b)'s speaker to the ground and did not remember PO Amir doing this. PO Scagnelli could not recall whether § 87(2)(b) pulled or pushed PO Amir's legs. At this point, § 87(2)(b) was going to be arrested for his actions against PO Amir. PO Scagnelli moved forward to grab § 87(2)(b)'s arm to place them behind his back to arrest him. § 87(2)(b) was brought to the ground, but PO Scagnelli did not recall how this happened. PO Scagnelli continued to try and put § 87(2)(b)'s arms behind his back and only contacted § 87(2)(b)'s arms. PO Scagnelli did not see what PO Amir was contacting. PO Scagnelli did not see Lt. Kim assisting and he did not see officers contacting anything other than § 87(2)(b)'s hands and arms to get him in handcuffs. § 87(2)(b) elbowed PO Scagnelli in the face at some point during the incident. § 87(2)(b) was also stiffening his arms while officers tried to place him in handcuffs. PO Scagnelli denied using any of the force that was alleged against § 87(2)(b) and did not see other officers using this force.

Lt. Kim testified that PO Amir walked toward § 87(2)(b) at which point § 87(2)(b) tried to hold onto his speaker and lunged toward PO Amir (**14 Board Review**). PO Amir moved backward and tried to grab § 87(2)(b)'s arm. At this point, § 87(2)(b) was under arrest. Lt. Kim did not see what PO Scagnelli did. Officers grabbed § 87(2)(b)'s arms and while § 87(2)(b) tried to get away, everyone went down to the ground. Lt. Kim was not a part of the takedown, and he did not remember which officers were. Lt. Kim assisted in grabbing § 87(2)(b)'s arms while he was on the ground and attempted to put § 87(2)(b) in handcuffs. Lt. Kim only contacted § 87(2)(b)'s arms and he did not see which other officers helped nor what they were contacting on § 87(2)(b). He felt officers near him moving around. § 87(2)(b) resisted by twisting his body and holding his hands to the front of his body. It took some time for officers to get the handcuffs on

§ 87(2)(b) There were three or four officers pulling § 87(2)(b)'s arms. Lt. Kim denied seeing or using any of the force that was alleged against § 87(2)(b)

§ 87(2)(g)

§ 87(2)(g)

Allegation (H) Force: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer Dylan Francis used physical force against an individual.

Allegation (I) Force: On September 2, 2022, at Washington Square Park in Manhattan, Police Officer Dylan Francis used physical force against § 87(2)(b)

PO Francis' BWC recording shows that when he arrives at the location at 1:04 minutes, he tries to keep a crowd of civilians away from § 87(2)(b)'s arrest (**07 Board Review**). There is one male that PO Francis continuously pushes back, as the male tries to walk around PO Francis each time he is pushed back, asking why officers are doing "that," to § 87(2)(b). At 1:26 minutes, § 87(2)(b) grabs the male and pulls him backward. The male attempts to approach again and at 1:36 minutes, PO Francis pushes him again. PO Francis turns his camera away from the male but when he turns back at 1:40 minutes, the male is helping § 87(2)(b) from the ground and there are no officers arriving from her direction.

§ 87(2)(b) testified that as officers were dealing with § 87(2)(b) an individual known to her as § 87(2)(b) attempted to get between officers and § 87(2)(b) (**19 Board Review**). § 87(2)(b) yelled that officers were not treating § 87(2)(b) well. § 87(2)(b) told § 87(2)(b) to leave the situation alone and as she did so, she felt a hard shove on the right side of the back of her body between her elbow and shoulder. This caused § 87(2)(b) to fall on the left side of her body. She fell and injured both of her hips, obtained a bruise on lower middle back, a bruise on both sides of her butt closer to her hips and a bruise on her left elbow. After being shoved, § 87(2)(b) looked up and saw that approximately ten police officers, including Lt. Kim and PO Scagnelli, had arrived. § 87(2)(b) could not determine which officer shoved her because there were so many of them. § 87(2)(b) did not provide photos of her bruises.

§ 87(2)(b) saw an officer punch § 87(2)(b) in his face and throw him to the ground (**20 Board Review**).

§ 87(2)(b) remained unidentified and therefore his statement could not be obtained.

§ 87(2)(g)

§ 87(2)(b) PO Francis resigned from the NYPD on February 21, 2023 (**25 Board Review**).

Neither Lt. Kim, PO Amir nor PO Scagnelli interacted with anyone beside § 87(2)(b) and they did not see other officers do so (14-16 Board Review).

§ 87(2)(g)

Allegation (J) Force: On September 2, 2022, at Washington Square Park in Manhattan, an officer used physical force against § 87(2)(b)

§ 87(2)(b) testified that during the struggle between officers and § 87(2)(b) § 87(2)(b)'s phone dropped (20 Board Review). § 87(2)(b) picked up the phone and PO Amir used his closed fist to the top of § 87(2)(b) hand, causing the phone to drop. PO Amir took the phone. § 87(2)(b) said that she later attempted to approach § 87(2)(b) and an unidentified officer punched her on her breast.

Lt. Kim, PO Scagnelli and PO Amir all denied using force against § 87(2)(b) and did not see who did (14-16 Board Review).

The investigation reviewed fifteen BWC recordings and did not see any officers use force against § 87(2)(b). The investigation noticed that there were NYC park officers who were present for the incident, as captured in a 12 second mobile phone video provided to the investigation (11 Board Review).

§ 87(2)(b) said that an officer punched her in her hand on her breast, but she could not identify the officer(s). None of the BWC footage shows officers interacting with § 87(2)(b). Neither Lt. Kim, PO Amir nor PO Scagnelli saw this interaction. § 87(2)(g)

Allegation (K) Force: On September 2, 2022, at Washington Square Park in Manhattan, officers used physical force against individuals.

A cell phone video shows at least four unidentified NYPD officers holding their open palms toward the crowd of civilians, pushing them back from § 87(2)(b) (10 Board Review). As mentioned earlier, PO Francis continuously pushed the unidentified male away from § 87(2)(b).

Lt. Kim's BWC shows that at 1:07 minutes, when the incident begins, there are a large number of people in their vicinity (04 Board Review). As the incident unfolds, the crowd begins yelling that officers are using excessive force against § 87(2)(b).

§ 87(2)(b) testified that several unidentified officers forcefully pushed a crowd of approximately eight civilians while telling them to "get back" (20 Board Review).

Neither Lt. Kim, PO Scagnelli nor PO Amir pushed civilians at the park, and they did not see who did (14-16 Board Review).

Force may be used when it is reasonable to ensure the safety of a member of service, a third person or otherwise protect life, when putting a person into custody or preventing a person from escaping custody NYPD Patrol Guide Procedure 221-01 (24 Board Review). In determining whether the use

of force is reasonable, members of the service should consider the following: a. The nature and severity of the crime/circumstances, b. Actions taken by the subject, c. Duration of the action, d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, e. Whether the subject is actively resisting custody, f. Whether the subject is attempting to evade arrest by flight, g. Number of subjects in comparison to the number of MOS, h. Size, age, and condition of the subject in comparison to the MOS, 1. Subject's violent history, if known, j. Presence of hostile crowd or agitators, k. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

§ 87(2)(g)

Allegation (L) Force: On September 2, 2022, outside of Washington Square Park in Manhattan, Police Officer Muhammad Amir used physical force against § 87(2)(b)

Sergeant Thomas Lewandowski of the 6th Precinct's BWC shows that at 1:30 minutes, PO Amir has § 87(2)(b) against a black gate outside of the park, with his hands in the vicinity of § 87(2)(b)'s head **(08 Board Review)**.

PO Amir's BWC fell off when he first began handcuffing § 87(2)(b) **(05 Board Review)**. PO Amir was not given his BWC back until after he placed § 87(2)(b) in the transporting vehicle and none of the other officers were close enough to record § 87(2)(b)'s interaction with PO Amir at this point **(05 Board Review)**. None of the officers' BWC depict PO Amir's contact with § 87(2)(b) as they left the park **(01, 02 Board Review)**. The footage also does not show PO Amir's and § 87(2)(b)'s full interaction at the gate.

§ 87(2)(b) testified that as PO Amir escorted him out of the park, PO Amir grabbed § 87(2)(b) by his hair **(13 Board Review)**. § 87(2)(b) did not make any movement beside walking and continuously asking officers, "For what reason?" When they got out of the park, PO Amir forcefully pushed § 87(2)(b) against a black metal gate and aggressively pulled § 87(2)(b)'s hair. PO Amir held him against the gate for approximately two minutes. § 87(2)(b) was then transported to the station house.

PO Amir testified that as he escorted § 87(2)(b) out of the park, § 87(2)(b) spit at PO Amir **(15 Board Review)**. As they approached the gate, PO Amir turned § 87(2)(b)'s body to face the gate and then held him there. He did not push § 87(2)(b) against the gate. § 87(2)(b) made a hawking sound, which indicated to PO Amir that § 87(2)(b) would spit on him again. PO Amir pulled § 87(2)(b)'s hood to turn his face away from PO Amir so that he could not spit on him. PO Amir said that he did not pull § 87(2)(b)'s hair and referred to the video, noting that § 87(2)(b)'s hood was between PO Amir's hand and § 87(2)(b)'s hood. The only time when PO Amir held his hair was to gain compliance during the handcuffing.

PO Amir's BWC did not depict any physical contact with § 87(2)(b) as they walked out of the park. § 87(2)(b) said that PO Amir pulled his hair as they walked out of the park and again while he waited at the gate. PO Amir denied taking this action. The BWC shows that PO Amir's hand was in the vicinity of § 87(2)(b)'s hair, but PO Amir said that he was pulling § 87(2)(b)'s hood after § 87(2)(b) made a sound that he was attempting to spit on PO Amir. § 87(2)(g)

§ 87(2)(g)

Allegation (M) Abuse of Authority: On September 3, 2022, at the 6th Precinct stationhouse, an officer did not process § 87(2)(b)'s complaint regarding officers.

Stationhouse footage expired and was therefore not obtained.

§ 87(2)(b) testified that on the next day, September 3, 2022, at approximately 4pm, she went back to the park, gathered six unidentified individuals and went to the 6th Precinct Stationhouse (**20 Board Review**). § 87(2)(b) asked to speak to the “biggest manager” and an unidentified officer appeared. She described this officer as a White male, with brown/blonde hair wearing a white uniform shirt. § 87(2)(b) told him that she wanted to file a report against officers regarding the incident with § 87(2)(b). The officer did not take a report for her but provided her with a phone number so that she could file the report.

The 6th Precinct command log for the incident date notes that Lt. Vautrinot worked from 9:10am until 8:30pm and Captain Zeikel worked from 2pm until 4pm on the incident and time. Both lieutenants are White males with brown hair (**27, 28 Board Review**).

Lt. Vautrinot testified that he did not know whether he was in the stationhouse doing administrative work or in the field at the time of the incident (**29 Board Review**). He did not know about § 87(2)(b)'s arrest and did not recall speaking to § 87(2)(b) in the stationhouse. Lt. Vautrinot did not speak with any civilians on that day regarding the arrests at Washington Square Park and he did not recall any civilians asking to file a complaint. He did not recall providing information to any civilians regarding how they could file a complaint against officers and did not refuse to file a complaint for § 87(2)(b). Lt. Vautrinot did not hear about a large group of people going into the stationhouse to complain about an incident.

Captain Zeikel testified that he signed out at 4pm and would have been in plain clothes ready to leave at that time (**30 Board Review**). He did not recall whether he left the stationhouse immediately or whether he stood around in the stationhouse when he ended his tour. Captain Zeikel did not recall addressing a group of people regarding officers' actions at Washington Square Park, but it was possible that he spoke to someone regarding § 87(2)(b)'s arrest on that day. He did not recall providing civilians with options on how they could file a complaint against officers, and he did not recall refusing to file a complaint for § 87(2)(b).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (**31 Board Review**).
- Lt. Kim has been a member of service for 18 years and has been a subject in eight other CCRB complaints and 15 other allegations, two of which were substantiated:
 - Case 202001196 involved substantiated allegations of refusal to process a civilian complaint against Lt. Kim. The Board recommended Command Discipline B and the Board has not yet imposed any discipline.

